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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,400	01/03/2002	Kenton Michael Fuqua	AUDIOPH1100	8375

7590 02/09/2006

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2049 Century Park East
Suite 2740
Los Angeles, CA 90067

EXAMINER

LEE, PING

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,400

Applicant(s)

FUQUA, KENTON MICHAEL

Examiner

Ping Lee

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 154-162 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 154-162 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 158-160 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 158 recites the limitation "said module" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 154 are rejected under 35 U.S.C. 102(b) as being anticipated by Gorike et al (US 5,073,936).

Regarding claims 154 and 157, Gorike discloses, in Fig. 6, a sound capture device comprising: a support arm and first and second transducers (31, 32) adapted to convert a pressure wave into an electrical signal, the transducers being positioned on the support arm at a separate distance to simulate sound reception at human ears on a human head facing a sound source (see abstract; col. 1, lines 25-31; col. 6, lines 6-9).

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 155, 156 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorike.

Regarding claims 155 and 156, Gorike fails to explicitly show, in Fig. 6, the means for adjusting the distance and the means for adjusting a pointing angle. However, Gorike does suggest that the locations and angular positions of the microphones are adjusted depending on whether ORTF-technique or the MS-technique is being applied (col. 6, lines 7-8). Therefore, it would have been obvious to one of ordinary skill in the art to modify Gorike by using the means for adjusting the distance or the means for adjusting a pointing angle in order to properly locating the microphones in order to simulate the interaural time difference using the ORTF-method (with specific distance and angular requirement) or using MS-method (with specific angular requirement).

7. Claims 158-160 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gorike in view of Rosander (US 4,757,545).

Regarding claims 158-160, Gorike teaches a stereophonic microphone system without explicitly showing any circuitry connected to the microphone. However, one skilled in the art would have expected that an amplifier unit has be coupled to the microphones to provide proper signals for further processing, such as to speakers or recorder. Rosander teaches an amplifier circuit with a dual channel amplifier (7,8)

connected to a stereophonic microphone system with a short conductor. Thus, it would have been obvious to one of ordinary skill in the art to modify Gorike by having a dual channel amplifier as taught by Rosander in order to provide proper microphone signal level for further processing.

Regarding claims 161 and 162, Gorike fails to show the first and second transducers are within a sound capture module. By providing the transducers within a module, one would have expected that it would be easier to move the transducers to different locations. Thus, it would have been obvious to one of ordinary skill in the art to modify Gorike and Rosander by integrating the microphones within a sound module in order to allow mobility. Furthermore, it was considered as a matter of engineering design choice to use a one piece construction instead of separate pieces. In re Larson, 144 USPQ 347 (CCPA 1965).

Response to Arguments

8. Applicant's arguments with respect to claims 154-162 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

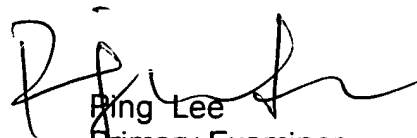
9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522. The examiner can normally be reached on Monday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ping Lee
Primary Examiner
Art Unit 2644

pwl